IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1961 OF 2006

M/s.Ahura Mazda Dairy Farm & Anr. ...Petitioners

vs.

The State of Maharashtra and anr. ...Respondents

Mr.Jehangir Khajotia for the Petitioner
Mr.S.V.More, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 19,2006.

P.C.:

1. Heard learned Counsel for the Petitioners. The second Respondent has filed a complaint under section 138 of the Negotiable Instruments Act, 1881 against the Petitioners. The said complaint is pending before the learned Metropolitan Magistrate, Mumbai. According to the case of the Petitioners a complaint was lodged by the certain investors against the Petitioners with the police. On the basis of the said complaint, charge sheet has been filed before the learned designated Court under Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act,1999 (hereinafter referred to as the M.P.I.D. Act). An application was made by the Petitioners under section 210 of the Code of Criminal Procedure, 1973 before the learned Magistrate contending that the complaint filed by the second Respondent deserves to be heard along with the case under the M.P.I.D. Act. The said application has been rejected by the learned Magistrate and the order passed by the learned Magistrate has been confirmed in a Revision by the Sessions Court.

2. Relying upon the decision of Madhya Pradesh High Court in case of Ajit Khan Vs. Sirajuddin and others reported in 1987 Cri.L.J. page 1304, and sub section 2 of section 210 of the said Code, the learned Counsel for the Petitioners submitted that the complaint filed by the second Respondent ought to have been transferred to the designated court which is trying the cases under M.P.I.D. Act. He submitted that the subject matter of both the cases is same.

3. I have considered the submissions. On plain reading of section 210 of the said Code, it is obvious that sub section 2 of section 210 has no application to the present case. This is not a case where the complaint filed by the second Respondent and the case under M.P.I.D. Act are pending before the learned Magistrate. The case under M.P.I.D.Act is pending before the designated court .

4. In the circumstances, the courts below are right in holding that section 210 of the said Code cannot be invoked in this case. I find no infirmity in the said view taken by the courts below. Petition is rejected.

JUDGE